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HEADER

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FM AMEMBASSY BERLIN

TO RUEHC/SECSTATE WASHDC

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RHEHNSC/NSC WASHDC

BT

CONTROLS

UNCLAS BERLIN 004117

E.O. 12958: N/A

***** THIS IS A COMBINED MESSAGE *****

BODY

TAGS: PGOV, PHUM, PINS, PREL, PTER, GM

SUBJECT: BUNDESTAG CONSIDERS EL-MASRI CASE AND RENDITION
FLIGHTS

1. THE BUNDESTAG KICKED OFF A "WEEK OF INFORMATION AND CLARIFICATION" ABOUT ALLEGED CIA PRISONER ABUSE ON DECEMBER 14 WITH COMMITTEE MEETINGS AND PLENARY SESSIONS THAT FOCUSED ON LITTLE ELSE. THE FOREIGN RELATIONS, INTERIOR, JUSTICE AND HUMAN RIGHTS COMMITTEES RECEIVED CLOSED-DOOR BRIEFINGS FROM THEIR RESPECTIVE MINISTERS CONCERNING THE CASE OF KHALED EL-MASRI AND ALLEGATIONS OF CIA RENDITION FLIGHTS AND SECRET PRISONS. AS IS NORMAL BUNDESTAG COMMITTEE PRACTICE, THESE SESSIONS ARE NOT OPEN TO THE PUBLIC. IN REMARKS TO THE PRESS FOLLOWING THE MEETINGS, MEMBERS OF ALL BUT THE JUSTICE COMMITTEE INDICATED THAT QUESTIONS REMAIN CONCERNING THE GOVERNMENT RESPONSE TO THE EL-MASRI CASE AND DISCUSSIONS WOULD CONTINUE ON DECEMBER 15.

2. A SCHEDULED PLENARY QUESTION AND ANSWER SESSION ON THE SUBJECT WAS CALLED OFF BECAUSE TOO MANY MEMBERS HAD APPLIED TO SPEAK. MEMBERS INDICATED THEY WISHED TO RAISE A TOTAL OF 64 QUESTIONS - 34 OF THEM RELATED TO THE EL-MASRI CASE AND ALLEGATIONS ABOUT RENDITION FLIGHTS OR TORTURE. DUE TO TIME CONSTRAINTS, THE BUNDESTAG PRESIDENT ORDERED THAT THE QUESTIONS BE SUBMITTED IN WRITING. WE UNDERSTAND THE ANSWERS TO THE QUESTIONS WILL BE PUBLISHED SOON.

3. THE PLENARY SESSION IN THE AFTERNOON CONSISTED OF A

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SPEECH BY FOREIGN MINISTER FRANK-WALTER STEINMEIER FOLLOWED BY FIVE-MINUTE RESPONSE BY SPOKESMEN OF ALL THE POLITICAL PARTIES. INTERIOR MINISTER WOLFGANG SCHAEUBLE CAPPED OFF THE TWO-HOUR SESSION WITH A CONCLUDING STATEMENT.

STEINMEIER SPEECH

4. READING FROM PREPARED REMARKS, FOREIGN MINISTER STEINMEIER PUT THE ISSUE OF RENDITIONS AND THE EL-MASRI CASE IN THE CONTEXT OF THE OVERALL FIGHT AGAINST TERRORISM. MAKING REFERENCE TO ALL MAJOR RECENT TERRORIST ATTACKS AS WELL AS THE NARROWLY-AVERTED ATTACK ON THE STRASBURG CHRISTMAS MARKET, HE APPLAUDED THE WORK DONE BY GERMAN INTELLIGENCE SERVICES AS WELL AS THE FEDERAL CRIMINAL INVESTIGATIVE SERVICE (BKA), ASSERTING THEY HAVE DONE A GOOD JOB AND HAVE SAVED MANY LIVES. AN OPEN-ENDED PUBLIC DEBATE ABOUT METHODS USED TO PREVENT TERRORIST ATTACKS WOULD MAKE THEIR WORK, AND ESPECIALLY THEIR COOPERATION WITH FOREIGN INTELLIGENCE AGENCIES, IMPOSSIBLE.
5. STEINMEIER JUSTIFIED THE GOVERNMENT'S MONITORING OF THE ACTIVITIES OF KHALED EL-MASRI PRIOR TO HIS ABDUCTION AS NECESSARY, BUT FIRMLY STATED THAT NO AGENCY OF THE GERMAN GOVERNMENT HAD PRIOR KNOWLEDGE OF OR PARTICIPATED IN THE ABDUCTION. HE ALSO DISMISSED ALLEGATIONS BY THE OPPOSITION THAT THE GOVERNMENT HAD REACTED WITH HESITATION ONCE IT FOUND OUT ABOUT THE ABDUCTION, NOTING THAT THE GOVERNMENT MADE A TOTAL OF 30 INQUIRIES INTO THE CASE IN THE FIRST FOUR MONTHS AFTER LEARNING ABOUT IT. HE ALSO ASSERTED THAT GERMAN AUTHORITIES MADE SIX REQUESTS TO THE USG FOR INFORMATION BETWEEN SEPTEMBER 2004 AND JANUARY 2005. STEINMEIER ADDED THAT EL-MASRI'S LAWYERS HAD APPEALED TO THE GOVERNMENT AT AN EARLY STAGE NOT TO GO PUBLIC WITH INFORMATION CONCERNING HIS CLIENT'S ABDUCTION. FOLLOWING STEINMEIER'S SPEECH, EL-MASRI'S LAWYER TOLD JOURNALISTS THAT THE FACTS, FIGURES AND DATES CITED BY THE FOREIGN MINISTER WERE ACCURATE.
6. STEINMEIER SAID THE GERMAN GOVERNMENT HAD MADE IT CLEAR TO PARTNER COUNTRIES THAT WHAT HAPPENED TO KHALED EL-MASRI WAS UNACCEPTABLE. HE STRESSED THAT EFFECTIVE COUNTER-TERRORISM COOPERATION REQUIRED A "COMMON BASIS OF TRUST." IN THIS REGARD, STEINMEIER CHARACTERIZED REMARKS MADE BY SECRETARY RICE TO NATO FOREIGN MINISTERS AS "ENCOURAGING." HE EMPHASIZED SEVERAL TIMES DURING HIS

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SPEECH THAT BILATERAL AND INTERNATIONAL AGREEMENTS HAVE TO BE RESPECTED.

VARIED RESPONSES

7. IN RESPONSE, BUNDESTAG INTERIOR COMMITTEE CHAIRMAN MAX STADLER (WHO IS ACTUALLY A MEMBER OF THE OPPOSITION FDP) STRESSED THE SERIOUSNESS OF THE EL-MASRI CASE AND ASKED RHETORICALLY WHY THE GERMAN GOVERNMENT HAS NOT LAUNCHED A PUBLIC DEBATE ON THE ISSUE AS SOON AS IT LEARNED ABOUT IT. HE CRITICIZED AND TERMED UNACCEPTABLE THE HAPHAZARD WAY THE GOVERNMENT PASSES INFORMATION TO THE BUNDESTAG. STADLER ASSERTED THAT MANY QUESTIONS REMAIN UNANSWERED AND, FOR THAT REASON, LEFT OPEN THE POSSIBILITY OF SETTING UP A BUNDESTAG INVESTIGATORY COMMITTEE.

8. CDU FOREIGN RELATIONS COMMITTEE MEMBER EDUARD LINDNER CALLED FOR A CALM AND COORDINATED INVESTIGATION OF THE ALLEGATIONS, EMPHASIZING THAT ANY CLASSIFIED CONTENT SHOULD BE DISCUSSED IN THE PARLIAMENTARY CONTROL BOARD, THE

***** START OF SECTION 2 *****

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TAGS: PGOV, PHUM, PINS, PREL, PTER, GM

SUBJECT: BUNDESTAG CONSIDERS EL-MASRI CASE AND RENDITION FLIGHTS

BUNDESTAG EQUIVALENT OF A SELECT INTELLIGENCE COMMITTEE. HE SAID UNCLASSIFIED ASPECTS OF THE EL-MASRI CASE COULD BE DEBATED PUBLICLY BY THE BUNDESTAG, BUT NOT DURING THE NOTORIOUSLY HEATED QUESTION HOUR. LINDNER CHARGED THE GREENS WITH HYPOCRISY FOR LEADING THE CRITICISM OF THE GOVERNMENT'S HANDLING OF THE EL-MASRI CASE WITHOUT ADDRESSING FORMER FOREIGN MINISTER JOSCHKA FISCHER'S APPARENT CULPABILITY. HE HAILED SECRETARY RICE'S AUTHORITATIVE STATEMENT IN BERLIN ABOUT THE USG STANCE ON RENDITIONS AND PRISONER ABUSE AS AN IMPORTANT "INITIAL SUCCESS FOR MERKEL GOVERNMENT." HE HOPED THAT GERMANY WOULD BE ABLE TO CONTRIBUTE CONSTRUCTIVELY TO THE U.S. DOMESTIC DEBATE ON TORTURE.

9. IN THE MOST HEATED RESPONSE, LEFT PARTY.PDS CO-CHAIRMAN GREGOR GYSI ACCUSED "OUR FRIENDS THE AMERICANS" OF SYSTEMATICALLY UNDERMINING INTERNATIONAL LAW. HE ALSO CHARGED FORMER INTERIOR MINISTER OTTO SCHILY WITH USING DOUBLE STANDARDS, IMPLYING THAT SCHILY WOULD NOT HAVE AGREED TO KEEP INFORMATION ABOUT THE CASE CONFIDENTIAL IF THE

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REQUEST HAD COME FROM AN AMBASSADOR OF ANY OTHER COUNTRY. SPEAKING ALSO ON BEHALF OF THE PDS, PETRA PAU STRUCK A SIMILAR TONE, SAYING THAT THE UNITED STATES WAS NOT ONLY AT WAR WITH TERRORISM; IT WAS ALSO AT WAR WITH CIVIL LIBERTIES AND INDEED WITH CIVILIZATION ITSELF. THEIR STRIDENT REMARKS EARNED GYSI AND PAU LOUD APPLAUSE, BUT ONLY FROM THEIR OWN FACTION.

10. ALLIANCE 90/GREENS CO-CHAIRWOMAN RENATE KUENAST AGREED WITH STEINMEIER THAT THE ISSUE NEEDED TO BE CONSIDERED IN THE CONTEXT OF THE FIGHT AGAINST INTERNATIONAL TERRORISM. DESCRIBING THE ISSUE AS AN "EXISTENTIAL" THREAT, SHE EMPHASIZED THAT GERMANY CANNOT AFFORD TO EXCLUDE ITSELF FROM INTELLIGENCE SHARING. BUT SHE DESCRIBED THE "LACK OF COMMON TRANSATLANTIC VALUES" AS THE REAL ISSUE AND ARGUED THAT SECRETARY RICE'S ASSURANCES MADE DURING HER BERLIN VISIT SHOULD NOT BE TAKEN AT FACE VALUE UNTIL THE UNITED STATES CLOSES DOWN THE DETENTION FACILITY AT GUANTANAMO.

11. INTERIOR MINISTER SCHAEUBLE CONCLUDED THE SESSION BY NOTING THE IMPORTANCE OF WORKING WITH THE UNITED STATES. HE UNDERLINED THAT POST-9/11, THE U.S. ENJOYED THE LEGAL BACKING OF A UN SECURITY COUNCIL RESOLUTION AS WELL AS THE FIRST AND ONLY DECISION BY NATO TO INVOKE ARTICLE V. BUT HE ALSO REITERATED THE GERMAN POSITION THAT U.S. ACTIONS NEEDED TO BE CONSISTENT WITH GERMAN AND INTERNATIONAL LAW.

12. SCHAEUBLE CONFIRMED THAT THE U.S. AMBASSADOR TO GERMANY HAD INFORMED THEN INTERIOR MINISTER SCHILY IN MAY 2004 THAT THE USG HAD MISTAKENLY DETAINED AND QUESTIONED KHALED EL-MASRI. HE ALSO REVEALED THAT THE USG CLAIMED IT HAD COMPENSATED EL-MASRI FOR HIS ORDEAL (AN ASSERTION EL-MASRI'S LAWYER LATER VEHEMENTLY DENIED). NEVERTHELESS, SCHAEUBLE DEFENDED THE PRACTICE OF DETAINING AND QUESTIONING TERRORIST SUSPECTS. HE CONFIRMED EARLIER PRESS REPORTS THAT GERMAN OFFICIALS HAD IN FACT INTERROGATED DETAINED TERRORIST SUSPECTS MOHAMMAD HAIDAR ZAMMAR IN SYRIA AND MURAT KURNAZ AT GUANTANAMO.

13. THE BUNDESTAG FOREIGN AFFAIRS AND INTERIOR COMMITTEES CONVENED AGAIN ON DECEMBER 15 TO CONTINUE THEIR CONSIDERATION OF THE EL-MASRI CASE. FOREIGN MINISTER STEINMEIER AND INTELLIGENCE CHIEF (BUNDESNACHRICHTENDIENST PRESIDENT) ERNST URLAU FIELDLED QUESTIONS FROM THEIR RESPECTIVE COMMITTEES. FDP FOREIGN AFFAIRS SPOKESMAN WOLFGANG GERHARD TOLD THE PRESS AFTERWARDS THAT THERE ARE STILL SOME UNANSWERED QUESTIONS

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THAT WOULD REQUIRE YET ANOTHER FOREIGN AFFAIRS COMMITTEE MEETING. HE ADDED THAT FORMER FOREIGN MINISTER FISCHER NEEDED TO EXPLAIN HIS ACTIONS AFTER HE LEARNED OF THE EL-MASRI ABDUCTION. CDU FOREIGN AFFAIRS COMMITTEE MEMBER RUPRECHT POLENZ DEFENDED THE INTERROGATION BY GERMAN AUTHORITIES OF TERRORIST SUSPECTS IN SYRIA AND AT GUANTANAMO SAYING THEY WOULD HAVE BEEN NEGLIGENT NOT TO HAVE DONE IT.

TIMKEN JR

ADMIN

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